

Appln. No.: 10/776,787  
Amendment Dated November 22, 2005  
Reply to Office Action of June 6, 2005

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**Amendments to the Drawings:**

The attached sheet shows that FIG. 1. has been amended to include a dotted line from Interface 108 to Primary Sensor 102.

Attachment: drawing 1 sheet

**Remarks/Arguments:**

Claims 1-26 stand rejected.

By this Amendment claims 1-2, 6, 9, 11-12, 15, 17-19 and 23-26 have been amended to clarify primary and secondary data and primary and secondary measurements therein as suggested in the Interview with the Examiners (summarized below).

No new matter is being presented by these claim amendments, and accordingly, entry and consideration is submitted to be proper and respectfully requested.

**SUBSTANCE OF INTERVIEW CONDUCTED ON SEPTEMBER 14, 2005**

Attorney Representatives, Joshua L. Cohen and Eric Berkowitz, appreciate the time taken by Examiner Xiuqin Sun and Primary Examiner Michael Nghiem during the Examiner Interview conducted by telephone on September 14, 2005. The Office Action requested a summary of the Examiner Interview. A summary is provided in the following paragraphs, and the Examiner and Primary Examiner are invited to supplement or correct the summary, if needed.

During the Interview, Attorney Representatives reviewed claim 1 and the corresponding drawing figures. The Primary Examiner questioned whether Figure 1 should be amended to include a dotted line between interface 108 and primary sensor 102. Attorney Representatives agreed to review the merits of such an amendment. The Primary Examiner further questioned antecedent basis for the term "secondary" in the claims and requested that Attorney Representatives review the claims in this application for antecedent basis.

The Attorney Representatives asked the Examiners for an explanation of the prima facie basis for the rejection of the claims, in particular with regard to motivation to combine the teaching of Scarola and Winston. Examiner Sun pointed out the passage of Scarola et al. at column 15, lines 39-46 as the basis for such a motivation.

Attorney Representatives responded that the cited passage of Scarola merely discusses how to combine multiple sensor readings into a readout for use by nuclear control room

operators but does not teach or suggest any motivation to combine the teachings of a mobile device with that of Scarola et al.

Examiner Sun further cited Nixon et al. at paragraph [0040] as providing the motivation. Attorney Representatives responded that any suggestion in Nixon et al. to replace each of the control lines of Scarola with a portable computer of Winston would be inconsistent with one objective of Scarola (i.e., continuous monitoring, updated at least every 2 seconds, of a nuclear plant environment to provide highly consistent and reliable information to the control room). Attorney Representatives also responded that there is no motivation to add Winston's portable computer to replace only one of Scarola's control lines. The Primary Examiner stated that Examiner Sun would review the references for the motivation.

At the end of the Interview, it was agreed that the Examiners would review the references to determine whether a motivation to combine the cited references exists and that Attorney Representatives would review the claims for antecedent basis and possible amendments to FIG. 1.

#### **AMENDMENTS TO CLAIMS AND DRAWINGS**

After the Interview conducted on September 14, 2005, Applicant has amended claims 1-2, 6, 9, 11-12, 15, 17-19 and 23-26 to clarify primary and secondary data and primary and secondary measurements as suggested by the Primary Examiner. Moreover, Applicant has amended FIG. 1 to include a dotted line from interface 108 to primary sensor 102 also as suggested by the Primary Examiner. Support for the drawing amendment can be found in original claim 1, for example.

#### **REJECTION OF CLAIMS 1-26 UNDER 35 U.S.C. §103(a)**

In the Office Action, claims 1-26 stand rejected under 35 U.S.C. §103(a) as obvious over Scarola et al. (U.S. Patent No. 5,715,178) in view of Winston et al. (U.S. Patent Publication No. 2005/0005713) and Nixon et al., (U.S. Patent Publication No. 2005/0005713).

Applicant respectfully traverses the rejection of these claims.

In the Office Action, it is stated that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Winston et al. in the invention of Scarola et al. in order to provide a distinct way to calibrate or validate the measurement of a process parameter by an external sensor (e.g., a portable sensor) as motivated by Scarola et al. (col. 15, lines 39-46) and Nixon et al. (section 0040)."

Applicant respectfully disagrees. More particularly, there is no motivation in the references for one skilled in the art to combine the teaches of these references to produce the claimed invention.

References must be considered as a whole, and it is well established that it is impermissible to pick and choose only so much as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly teaches or suggests. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986)(citing *In re Wesslau*, 147 U.S.P.Q. 391, 393 (CCPA 1965)). See also, *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992) (One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.); *In re Mercier*, 185 U.S.P.Q. 774, 778 (CCPA 1975)(all the relevant teaching of the cited reference must be considered in determining what they fairly teach to one having ordinary skill in the art) (emphasis in original); *In re Wesslau* 353 F.2d 238, 241 (CCPA 1965) (impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.). Here, the cited passages in the prior art fail to establish the necessary motivation to combine the teaches of Scarola and Winston. Furthermore, as explained below, Scarola teaches away from the present invention and, thus, should not be combined with Winston.

The Office Action cites passages of Scarola at col. 15, lines 39-46 and Nixon et al. at section 0040 as the motivation to combine the Scarola and Winston references. The cited passage of Scarola, discloses a generic algorithm to average all sensors A, B, C and D and deviation checks all sensors against the average to validate a "Process Representation." Nixon at the cited passage discloses use of a portable computer system 30 for a user to obtain and view information pertaining to certain devices or areas within the process control environment via a HUD [Heads Up Display] 40. Neither of these passages provides any motivation for a computer to receive primary and secondary data corresponding to a process parameter, at least

one sensor to measure the process parameter that is coupled for communication of the primary data corresponding to the process parameter to the computer as a primary measurement of the process parameter, and an interface for communicating the secondary data corresponding to the process parameter from the at least one sensor, wherein the interface is configured to provide the secondary data to the computer via a portable computer as a secondary measurement of the process parameter. According to one embodiment of such a system, for example, the computer receives primary and secondary data along different communications channels by coupling the sensor to the computer as a primary measurement of a process parameter and interfacing via an interface/portable computer as a secondary measurement of the process parameter.

Scarola teaches away from such a system configuration, because Scarola teach reducing the amount of information and the variety and complexity of the equipment used by an operator in commercial nuclear power plants. (See Scarola at column 1, lines 34-40.) For example, as shown in FIG. 30 of Scarola, all sensors A, B, C and D are processed identically (through Plant Protection System 50 via digital fiber optics). Different communications channels would, otherwise, add complexity against the teaching of Scarola. Moreover, Nixon merely teaches the display of information pertaining to the process control system via a HUD 40. No motivation is provided by either Scarola or Nixon to combine the Scarola system with Winston et al. to produce the claimed invention (for example, to produce a system that is capable of receiving primary and secondary data along different communications channels).

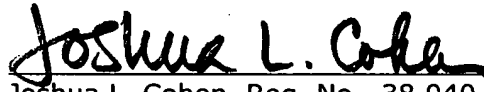
Moreover, one of skill in the art would not be motivated to connect a portable computer into a control room monitoring system, especially one in which 2 second updates are required, because any connection and disconnection of the portable device would cause disruptions to (and undue complexity for) the operators in the control room. (See Scarola at column 16, lines 5-12).

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Applicant contends, therefore, that independent claim 1 is patentable over the art of record. Independent claims 12, 19 and 26 are patentable over the art of record at least for similar reasons to those explained in connection with claim 1. Dependent claims 2-11, 13-18 and 20-25 are also patentable over the art of record because they incorporate the elements of claims 1, 12 and 19, but may be separately patentable for additional reasons as well.

Respectfully submitted,



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JLC/EB/ks

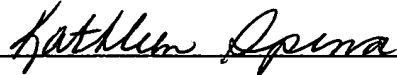
Enclosure: drawing (1 sheet)  
Request for Extension of Time

Dated: November 22, 2005

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Kathleen Spina

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